

**O'DONNELL McCORD, P.C.**

ATTORNEYS AT LAW

1725 HIGHWAY 35, SUITE C  
WALL, NEW JERSEY 07719

T: (732) 681-0048

F: (732) 681-0053

PLEASE REPLY TO WALL OFFICE

Jonathan Testa\*  
JTESTA@OMLAWPC.COM  
Attorney Id.: 015152009  
\* Member NJ and NY Bars

BERGEN COUNTY OFFICE  
266 HARRISTOWN ROAD  
GLEN ROCK, NEW JERSEY 07452

ESSEX COUNTY OFFICE  
SEVEN HUTTON AVENUE  
WEST ORANGE, NEW JERSEY 07052

MORRIS COUNTY OFFICE  
15 MOUNT KEMBLE AVENUE  
MORRISTOWN, NEW JERSEY 07960

February 20, 2018

**VIA ECF**

Honorable Brian R. Martinotti, U.S.D.J.  
U. S. District Court for the District of New Jersey  
Clarkson S. Fisher Building  
402 East State Street  
Trenton, New Jersey 08608

**Re: Curley v. Monmouth County Board of Chosen Freeholders, et al.,  
Civil Action No.: 3:17-cv-12300-BRM-TJB**

Dear Judge Martinotti:

Please be reminded that this office represents Defendants' Monmouth County Board of Chosen Freeholders, et al., (hereinafter the "Freeholder Defendants") in the above-referenced matter.

In this regard, three (3) motions are presently pending before Your Honor: (i) Plaintiff's Motion for Contempt (ECF Nos. 8-9); (ii) the Freeholder Defendants' Motion to Dismiss (ECF No. 26); and (ii) Co-Defendants Michael Fitzgerald, Esq., and Teri O'Connor's Motion to Dismiss (ECF No. 32). The Motions to Dismiss are presently returnable on March 19, 2018.

Concerning Plaintiff's Motion for Contempt, on February 15, 2018, Plaintiff's counsel sent electronic correspondence advising that the court has instructed the parties to arrive at a mutual agreeable time for oral argument as to same. Plaintiff's counsel further advised of their availability for oral argument on March 6, 9, and 13th.

Approximately three hours later on even date, the undersigned responded to Plaintiff's counsel via email, explaining that it was the Freeholder Defendant's position that Your Honor entertain oral argument as to all pending motions on the same date, and further requested a telephonic conference within the next few days to reach an agreement on same.

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Although Plaintiff's counsel disagreed with the proposal to have oral argument on the pending motions on the same date, they did agree to discuss the issue further in the forthcoming days. Thus, I am somewhat perplexed as to the correspondence filed by Plaintiff's counsel earlier today, wherein it was represented that I did not respond to their inquiry.

To be clear, the undersigned takes issue with scheduling oral argument on Plaintiff's Motion for Contempt on March 9th or 13th for several reasons. The first being the fact that the return date for the Defendants' Motions to Dismiss is March 19, 2018. Scheduling oral argument on the Motion for Contempt as suggested by Plaintiff's counsel, less than two weeks before oral argument on Defendants' Motions to Dismiss, needlessly consumes judicial and party resources.

Secondly, on March 9, 2018, the undersigned is already scheduled to appear in Morris County Superior Court on two separate matters in the morning; and Essex County Superior Court for multi-party litigation in the afternoon on even date.

Third, March 9th and 13th are respectively the last business day before and the first business day after the deadline for Defendants to file reply papers on their Motions to Dismiss. Hence scheduling oral argument on these dates necessarily leaves defense counsel at a practical disadvantage in appropriately preparing reply papers, or alternatively, for preparing for oral argument on the Motion for Contempt.

Moreover, it is the Freeholder Defendants position that the legal issues involved in Plaintiff's Motion for Contempt, including the requested relief, are inextricably intertwined with the material legal issues presented in the Defendants' Motions to Dismiss. Although Defendants raised these issues in their opposition papers, certain items were briefed in further detail in the Freeholder Defendants' Motions to Dismiss. It is for the parties and the court's benefit to have these specific legal issues fully briefed and considered by the court before a decision is rendered on the Motion for Contempt.

In light of the above, the undersigned offered to resolve the scheduling of oral argument on the Motion for Contempt so that same is entertained by Your Honor on the same date as the pending Motions to Dismiss (whether it is March 19, 2018 or otherwise) subject of course to the court's availability and approval.

Regardless of the date, the undersigned believes it is reasonable, appropriate, and in all parties' interest to have oral argument on the pending Motion for Contempt and Motions to Dismiss on the same date and time. Should the court find this request to be appropriate, the undersigned will gladly continue to coordinate with counsel for all parties to reach a mutually agreeable date and time for same.

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Should Your Honor's chambers have any questions or concerns, please do not hesitate to contact the undersigned directly at (973)538-1230. Thank you for your consideration of this correspondence.

Respectfully submitted,

**O'DONNELL McCORD, P.C.**

/s/Jonathan Testa, Esq.

JONATHAN TESTA

JT:rt

cc: Angelo Genova, Esq. (Attorney for Plaintiff)  
Bruce P. McMoran, Esq. (Attorney for Co-Defendants Fitzgerald & O'Connor)  
Matthew J. O'Donnell, Esq.